

CUYAHOGA VALLEY NATIONAL PARK
Programmatic Environmental Assessment for Riverbank Management
of the Cuyahoga River

Appendix A

Laws (Statutes), Executive Orders, Regulations, Policies and Guidelines

Following are descriptions for some of the laws, executive orders, regulations, and policies that are referenced in the Programmatic Environmental Assessment.

Antiquities Act of 1906 provided for protection of historic, prehistoric, and scientific features on federal lands, with penalties for unauthorized destruction or appropriation of antiquities; authorized the President to proclaim nation monuments; authorized scientific investigation of antiquities on federal lands subject to permit and regulations.

Archaeological and Historic Preservation Act of 1974 (P.L. 93-291; 88 Stat. 174) amended the 1960 Reservoir Salvage Act; provided for the preservation of significant scientific, prehistoric, historic and archaeological materials and data that might be lost or destroyed as a result of federally sponsored projects; provided that up to one percent of project costs could be applied to survey, data recovery, analysis, and publication.

Archaeological Resources Protection Act (ARPA) of 1979 (P.L. 96-95; 93 Stat. 712) defined archaeological resources as any material remains of past human life or activities that are of archaeological interest and at least 100 years old; required federal permits for their excavation or removal and set penalties for violators; provided for preservation and custody of excavated materials, records, and data; provided for confidentiality of archaeological site locations; encouraged cooperation with other parties to improve protection of archaeological resources. Amended in 1988 to require development of plans for surveying public lands for archaeological resources and systems for reporting incidents of suspected violations.

The Clean Water Act CWA) of 1977 is an amendment to the Federal Water Pollution Control Act of 1972, enacted by Congress to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The CWA created three permit programs - Section 401 as a certification mechanism, and Section 402 and Section 404 to regulate the point-source discharge of pollutants into waters of the U.S.

The Endangered Species Act of 1973, as amended, prohibits federal actions from jeopardizing the existence of federally-listed threatened or endangered species or adversely affecting designated critical habitat. Federal agencies must consult with the U.S. Fish and Wildlife Service to determine the potential for adverse effects. Federal agencies are also responsible for improving the status of listed species.

Historic Sites Act of 1935, declared it a national policy to preserve historic sites, buildings, and objects for public use and authorized the NPS to “restore, reconstruct, rehabilitate, preserve, and

maintain historic and prehistoric sites, buildings, objects, and properties of national historical or archaeological significance.”

The National Environmental Policy Act of 1969 (NEPA), as amended, requires detailed and documented environmental analysis of proposed federal actions that may affect the quality of the human environment.

The National Historic Preservation Act (NHPA) of 1966, as amended, declared historic preservation as a national policy and authorized the Secretary of the Interior to expand and maintain a National Register of Historic Places that would include properties of national, state, and local historic significance. The Act recommends that federal agencies proposing action consult with the State Historic Preservation Officer regarding the existence and significance of cultural and historical resource sites.

National Park Service Organic Act of 1916 established the National Park Service “to promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified, except as are under the jurisdiction of the Secretary of the Army, as provided by law, by such means and measures as conform to the fundamental purpose to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment for the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

National Park System General Authorities Act of 1970 has as its purpose to include all areas administered by the National Park Service in one National Park System and to clarify the authorities applicable to the system.

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990. These regulations address the rights of lineal descendants, Indian tribes, and native Hawaiian organizations to Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. They require federal agencies and institutions that receive federal funds to provide information about Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to lineal descendants, Indian tribes, and native Hawaiian organizations and, upon presentation of a valid request, dispose of or repatriate these objects to them.

Public Law 93-555 is enabling legislation that established the Cuyahoga Valley National Recreation Area

Executive Order (EO) 11593 (Protection and Enhancement of the Cultural Environment) instructs all federal agencies to support the preservation of cultural properties and directs them to identify and nominate to the National Register cultural properties under their jurisdiction and to “exercise caution...to assure that any federally-owned property that might qualify for nomination is not inadvertently transferred, sold, demolished, or substantially altered.”

EO 11988 (Floodplains) directs federal agencies to protect, preserve, and restore the natural resources and functions of floodplains; avoid the long- and short-term environmental effects associated with the occupancy and modification of floodplains; and avoid direct and indirect

support of floodplain development and actions that could adversely affect the natural resources and functions of floodplains or increase flood risks.

EO 11990 (Protection of Wetlands) directs federal agencies to minimize impacts and mitigate the destruction, loss, or degradation of wetlands; preserve, enhance and restore the natural and beneficial values of wetlands; and avoid direct and indirect support of new construction in wetlands unless there are no practicable alternatives and the proposed action includes all practicable measures to minimize harm to wetlands. NPS policies for implementing EO 11990 are found in Director's Order 77-1 "Wetland Protection" and the associated Procedural Manual. This order requires that parks assess all direct or indirect impacts, including whether each alternative "supports, encourages, or otherwise facilitates additional wetland development."

EO 13112 requires that federal agencies act to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause.

EO 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds) directs Federal agencies to avoid taking actions that have a measurable negative effect on migratory bird populations. If such actions are taken, the EO directs agencies "to develop and implement within two years a Memorandum of Understanding with the U.S. Fish and Wildlife Service that shall promote the conservation of migratory bird populations." This EO also defines migratory bird "species of concern" as "those species listed in the periodic report Migratory Nongame Birds of Management Concern in the United States, priority migratory bird species as documented by established plans [such as Bird Conservation Regions in the North American Bird Conservation Initiative or Partners in Flight physiographic areas], and those species listed in 50 CFR 17.11 [Endangered Species Act]".

Special Directive 82-12, "Historic Property Leases and Exchanges," elaborates on the leasing and exchange of historic properties under Section 111 of the NHPA of 1966 as amended.

Part 36 of the Code of Federal Regulations (CFR) provides for the proper use, management, government, and protection of persons, property, and natural and cultural resources within areas under the jurisdiction of the NPS.

- ❑ 36 CFR 60 (NHPA and EO 11593), "National Register of Historic Places," addresses concurrent state and federal nominations, nominations by federal agencies, and removal of properties from the National Register.
- ❑ 36 CFR 63 (NHPA and EO 11593), "Determinations of Eligibility for inclusion in the National Register of Historic Places," establishes process for federal agencies to obtain determinations of eligibility on properties.
- ❑ 36 CFR 65 (Historic Sites Act of 1935), "National Historic Landmarks Program," establishes criteria and procedures for identifying properties of national significance, designating them as national historic landmarks, revising landmark boundaries, and removing landmark designations.

- ❑ 36 CFR 68 (NHPA) contains the Secretary of the Interior's standards for historic preservation projects, including acquisition, protection, stabilization, restoration, and reconstruction.
- ❑ 36 CFR 79 (NHPA and ARPA), "Curation of Federally-owned and Administered Archeological Collections," provides standards, procedures and guidelines to be followed by federal agencies in preserving and providing adequate long-term curatorial services for archeological collections of prehistoric and historic artifacts and associated records that are recovered under Section 110 of the NHPA, the Reservoir Salvage Act, ARPA and the Antiquities Act.
- ❑ 36 CFR 800 (NHPA and EO 11593), "Protection of Historic and Cultural Properties," includes regulations of the Advisory Council on Historic Preservation to implement Section 106 of the NHPA as amended, and presidential directives issued pursuant thereto.

40 CFR 1500-1508 (Council on Environmental Quality NEPA regulations of 1978) - provides Regulations for Implementing the Procedural Provisions of NEPA.

43 CFR 3 (Antiquities Act) establishes procedures to be followed for permitting the excavation or collection of prehistoric and historic objects on federal lands.

43 CFR 7, Subparts A and B (ARPA, as amended), "Protection of Archaeological Resources, Uniform Regulations" and "Department of the Interior Supplemental Regulations," provides definitions, standards, and procedures for federal land managers to protect archaeological resources and provides further guidance for Interior bureaus on definitions, permitting procedures, and civil penalty hearings.

The NPS Management Policies (NPS, 2001a) provide general guidance for managing natural resources.

Cuyahoga Valley National Park's General Management Plan (NPS, 1977) provides the overall concept for management and resource preservation for compatible recreational use. It lists the objectives for natural resources management as follows:

"To preserve natural park lands under the concept of 'total environment' or ecosystem perpetuation and ensure that all visitor-use activities are appropriate to their setting; to design park facilities to take advantage of natural climatic conditions and incorporate environmentally neutral technology wherever feasible; to cooperate with federal, state, and local agencies in the monitoring of environmental quality "

It also states that CVNP "will be managed by the National Park Service as an integral part of the Cuyahoga River Basin, and all resources management strategies for the park will be coordinated with strategies for the entire basin."